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BEFORE THE BOARD OF OIL, GAS AND MINING
DEPARTMENT OF NATURAL RESOURCES
IN AND FOR THE STATE OF UTAH

IN THE MATTER OF FORMAL RULEMAKING
TO AMEND THE MINERALS REGULATORY
PROGRAM R647 RULES FOR ANNUAL FEE
AND REPORT DEADLINES.

DOCKET NO. 2011-002 CAUSE NO. RMNRL-2011-01

TAKEN AT: Department of Natural Resources
1594 West North Temple, Room 1040
Salt Lake City, Utah

DATE: Thursday, February 24, 2011

TIME: 10:19 a.m. to 10:29 a.m.

REPORTED BY: Michelle Mallonee, RPR

ATKINSON-BAKER COURT REPORTERS
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JOB #A501C15

APPEARANCES

BOARD OF OIL, GAS AND MINING:

Douglas E. Johnson, Chairman
Ruland J. Gill, Jr.
Jake Y. Harouny (Excused)
James T. Jensen, Chairman
Kelly L. Payne
Samuel C. Quigley (Excused)
Jean Semborski

DIVISION OF OIL, GAS AND MINING:

John R. Baza, Director
Dana Dean, Associate Director, Mining
John C. Rogers, Associate Director, Oil and Gas
Jim Springer, Public Information Officer
Steve Schneider, Administrative Policy Coordinator
Julie Ann Carter, Secretary to the Board

ASSISTANT ATTORNEYS GENERAL:

Steven F. Alder - Division Attorney
Emily Lewis - Division Attorney
Michael S. Johnson - Board Attorney

1 Docket No. 2011-002 Cause No. RMNRL-2011-01

2 Thursday, February 24, 2011

3 (The proceedings began at 10:19 a.m.)

4 CHAIRMAN JOHNSON: Docket No. 2011-002 Cause No.
5 RMNRL-2011-01 - In the Matter of Formal Rulemaking to
6 Amend the MINERALS REGULATORY PROGRAM R647 RULES for
7 Annual Fee and Report Deadlines.

8 Mr. Alder, would you please go ahead.

9 MR. ALDER: Thank you, Mr. Chairman, members of
10 the Board. As you know, in rulemaking witnesses are not
11 testifying, and we won't ask that witnesses be sworn.
12 But the Division would like to present this matter to the
13 Board as item for formal action.

14 Dana Dean, Associate Director of Mining, will
15 explain briefly the reasons the Division is requesting
16 this rule change. And then Steve Schneider, who is the
17 Administrative Coordinator, will explain the proposed
18 procedures and give a little background as to the
19 timetable recommended in this matter.

20 CHAIRMAN JOHNSON: Good morning, Ms. Dean.

21 MS. DEAN: Mr. Chairman, I'm Dana Dean. I'm the
22 associate director of the division.

23 The minerals program asked for this change in
24 the rules to create an efficiency. Currently, we have
25 three separate major deadlines for operators to comply

1 with. One is a fee deadline at the end of July. Another
2 is an annual report deadline for exploration projects,
3 which is the end of December. And the third deadline is
4 the annual report for small and large mining operations,
5 which is the end of January.

6 In order to make it more efficient for both the
7 operator and the Division, we would like to consolidate
8 all of those due dates to the end of January. That keeps
9 the fee collection within the same state fiscal year so
10 there would be no problem caused there. And it makes it
11 so that we are only trying to track people down once
12 instead of three times if they have failed to meet a
13 deadline.

14 While we were looking at the language, we saw
15 that there was an inadvertent word, error, in the rules.
16 And we're also changing one section of the small mining
17 regulations from -- it says "exploration." We're
18 changing the word to "small mining operations" so that it
19 is congruent with the rest of the rules.

20 CHAIRMAN JOHNSON: Any questions for Ms. Dean?

21 Mr. Schneider.

22 MR. SCNEIDER: Thank you, Mr. Chairman. Steve
23 Schneider, Division of Oil, Gas and Mining.

24 I'd like to first have Julie Ann distribute an
25 illustrative exhibit, which describes the process we've

1 undertaken, both in the informal rulemaking process,
2 which is encouraged by the Utah Administrative Rulemaking
3 Act, as well as share with you where we are in the formal
4 process thus far and then plan for your future dates.
5 Hopefully, this illustrative exhibit will help guide you.
6 And let me know if you have questions as I describe that.

7 We started the informal process on October 19
8 with a memo to the Board on our recommendations, as Dana
9 Dean described, with a copy to the Utah Mining
10 Association.

11 On October 27, we provided a briefing to the
12 Board on those proposed amendments.

13 The next day, we issued a letter to the informal
14 rules review group seeking comments. In addition, since
15 the mineral mining community is quite diverse, we also
16 posted that rule proposal on the website for the minerals
17 and mining program. And we also sent out an email to
18 their permittees during that month.

19 On December 8 of 2010, we then reported back to
20 the Board at your briefing on any comments received. We
21 received three different comments, all positive. And
22 since the Board did not oppose us continuing with the
23 filing of a formal petition, the Division then filed that
24 formal petition on January 4, 2011.

25 It's -- we should say we've taken notice that

1 the Notice of Hearing was appearing in the newspaper on
2 February 6 in the Salt Lake Tribune and Deseret News; and
3 thus, that brings us to today's February 23 hearing,
4 essentially, the first of the -- the first of the formal
5 hearing matters on this rule process.

6 CHAIRMAN JOHNSON: Actually, February 24.

7 MR. SCNEIDER: Oh, and now it's February 24, the
8 second day of the two-day hearing, yes.

9 So just briefly, what we're here today to ask
10 you to do -- and Mr. Alder will summarize our
11 recommendation -- but we're asking you to approve the
12 Division proceeding with formal rulemaking, which
13 includes filing the proposed rule amendments with the
14 Division of Administrative Rules in their e-rule system.
15 And then we would ask that a date be set of March 23, the
16 next monthly hearing, to accept public comment. So
17 that's the background on where we are thus far and the
18 plan dates.

19 As you can see on the exhibit, by March 1, we
20 would make that filing in e-rules after your anticipated
21 approval today. We would then see the notice, the public
22 notice of this rulemaking, in the Utah State Bulletin on
23 March 15. We'd then start a 30-day comment period.

24 As noted, we'd like to have the opportunity for
25 oral public comment on March 23. The end of the 30-day

1 comment period would then run in April on April 14. And
2 then final Board approval could occur on April 27.

3 CHAIRMAN JOHNSON: Any questions for
4 Mr. Schneider?

5 Go ahead, then Mr. Alder.

6 Excuse me. Go ahead, Mr. Gill.

7 MR. GILL: Just as a general, kind of, umbrella
8 question, and it has to do with the changes to 6.12. And
9 that's where you make a cross reference. I know when
10 people look at the rules, unless there's a real good
11 reason or you think you're going to change the cross
12 reference, it's always good to have them self-contained
13 so that you can look at that one rule and it tells you
14 everything you need to know without flipping back and
15 forth and back and forth.

16 Is there a reason why you chose a cross
17 reference over a date?

18 MR. SCNEIDER: The reason why the parties chose
19 a cross reference in this case is because the whole
20 purpose of the rule change was to bring it all together
21 to one consistent date for annual reports and fees.

22 MR. GILL: And I fully agree with that.

23 The question is: Would it be just as easy to
24 put that date in there or the cross reference?

25 MR. SCNEIDER: It could have been just as easy

1 that way. That was under consideration. We decided to
2 go with the cross reference just to pull it all together,
3 so -- we thought it would be easier with the parties.
4 And the Utah Mining Association did not oppose this.

5 MR. GILL: Okay. Thank you. Just as a general
6 reference, just if you can, include that as something in
7 your thought process. You may not decide it. But if you
8 just kind of, like, one, if you can do one-stop shopping
9 for permits; two, if you can go to one place and be told
10 everything you need to know, it's always a better
11 process.

12 CHAIRMAN JOHNSON: Thank you.

13 MR. ALDER: Thank you, Mr. Chairman, Members of
14 the Board.

15 We would ask, then, for today that there be a
16 motion and order. I apologize for not having prepared in
17 advance an order. But we would seek an order that the
18 proposed rule amendments attached to the request be filed
19 in accordance with the rulemaking act; and that the Board
20 schedule a public hearing for March 23 to hear comments
21 on the proposed rule; and that subsequently, within the
22 provisions and the rule, the time provided by that, that
23 the Board adopt the rules, as proposed, or as they choose
24 to amend, based on comments.

25 CHAIRMAN JOHNSON: Thank you, Mr. Alder.

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Mr. Payne.

MR. PAYNE: Mr. Chairman, I'd like to make a motion that we grant the Request for Agency Action -- or the request as submitted by the Division, and ask Mr. Alder to prepare the order.

CHAIRMAN JOHNSON: Is there a second?

MR. JENSEN: Second. And given your tenure, Mr. Chairman, Mr. Alder, I would ask that you prepare that such that Mr. Johnson could sign it by Monday.

MR. ALDER: We'll prepare it right away. Thank you.

CHAIRMAN JOHNSON: Thank you.

Any other discussion?

All those in favor say "Aye."

THE BOARD: Aye.

CHAIRMAN JOHNSON: Anyone opposed?

Thank you, Mr. Alder.

(The matter concluded at 10:29 a.m.)

CERTIFICATE

State of Utah)
ss.
County of Salt Lake)

I, Michelle Mallonee, a Registered
Professional Reporter and Notary Public in and for the
State of Utah, do hereby certify:

That the proceedings of said matter was
reported by me in stenotype and thereafter transcribed
into typewritten form;

That the same constitutes a true and correct
transcription of said proceedings so taken and
transcribed;

I further certify that I am not of kin or
otherwise associated with any of the parties of said
cause of action, and that I am not interested in the
event thereof.



Michelle Mallonee

Michelle Mallonee, RPR, CSR